



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/25/2763**

**Re: Property at 15 Glen Arroch, East Kilbride, G74 2BP (“the Property”)**

**Parties:**

**Mr Paul Murphy, 73 Ardgour Court, Blantyre, G72 0YQ (“the Applicant”) per his agents, Cartys, 2, Clydeview Centre, Blantyre, G72 0QD (“the Applicant’s Agents”)**

**Mr Arno Wallace, 15 Glen Arroch, East Kilbride, G74 2BP (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Melanie Booth (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.**

**Background**

1. By application dated 10 July 2025 (“the Application”), the Applicant’s Agents on his behalf applied to the Tribunal for an Order for eviction and possession of the Property based on Grounds 4 and 12 of Schedule 3 to the 2016 Act.
2. The Application comprised the following:
  - i) copy private residential tenancy agreement between the Parties and an entry date of 1 July 2024 and signed by the Parties on 12 October 2024;
  - ii) copy Notice to Leave in terms of Ground 4 of Schedule 3 to the Act dated 15 March 2025;
  - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to South Lanarkshire Council being the relevant local authority;
  - iv) copy rent ledger showing rent due and owing by the Respondent;
  - v) copy rent statement also showing rent due and owing by the Respondent;
  - vi) Affidavit by the Applicant evidencing his intention to reside in the Property and evidencing issue of the Notice to Leave.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 30 January 2026 at 10.00 by telephone conference and intimated to the Parties, and in particular, to the Respondent by Sheriff Officer on 10 December 2025.

## **CMD**

4. The CMD took place on 30 January 2026 at 10.00 by telephone. The Applicant, Mr. Murphy, was present and was represented by Ms. Agyako of the Applicant’s Agents. The Respondent was not present and was not represented. He did not submit written representations. The Tribunal was satisfied that the Respondent had been made aware of the CMD and that he ought to attend and so proceeded in his absence.
5. The Application was heard alongside application FTS/HPC/CV/25/2769 between the same Parties seeking an Order for payment of the rent due and owing.

6. Ms. Agyako for Mr. Murphy confirmed that an Order for eviction is sought and confirmed that the Order was sought in terms of Ground 4 only, that the landlord intends to live in the let property, and that Ground 12 was no longer relied upon. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application was satisfied and that it was reasonable to grant the Order. In this regard and having heard submissions from Mr. Murphy in respect of issue of the Notice to Leave, the Tribunal advised that it was satisfied that the correct procedure had been carried out and that there was supporting evidence for Ground 4.
7. The Tribunal asked Ms. Agyako to provide information on reasonableness to grant the Order. Ms. Agyako explained that Mr. Murphy does not own properties other than the Property and that, as explained in the Affidavit, the Property had been his main residence. She explained that Mr. Murphy now requires to return to reside in the Property due to changes in circumstances. Ms. Agyako stated that there has been no contact from Respondent, Mr. Wallace, since the Notice to Leave was issued and that he had stopped paying rent with arrears now standing at £6,100.00.
8. With regard to the Respondent, Mr. Wallace, Mr. Murphy confirmed that there been no contact from him since the Notice to Leave was issued and that no rent had been paid. Mr. Murphy stated that he had been advised by Mr. Wallace a court order would be needed before Mr. Wallace vacated the Property. Mr. Murphy stated that as far as he knew, Mr. Wallace lives alone, is in employment, possibly as an agency worker, and has no health issues.

### **Findings in Fact**

9. From the Application and the CMD, the Tribunal made the following findings in fact: -
  - i) There is a private residential tenancy of the Property between the Parties commencing on 1 July 2024;
  - ii) The Property had been the Applicant's main residence;
  - iii) The Applicant intends to return to reside in the Property;

- iv) Following issue of the Notice to Leave, the Respondent stopped paying rent with no cause or reason to do so;
- v) The Respondent is employed and resides alone.

### **Rule 17 (4) of the Rules**

10. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal *“may do anything at a case management discussion .....including making a decision”*. The Tribunal took the view that it had sufficient information to make a decision.

### **Issue for the Tribunal**

11. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Ground on which the Application proceeds is Ground 4 which states: *“(1)It is an eviction ground that the landlord intends to live in the let property. (2)The First-tier Tribunal may find that the ground named by subparagraph (1) applies if (a)the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months and (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”*
12. The statutory ground and procedure being established and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness.

### **Decision and Reasons for Decision**

13. The Tribunal had regard to all the information before it and to its Findings in Fact.
14. The Tribunal then had regard to the circumstances of the Parties.
15. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C.

245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.

16. The Tribunal then looked to balance the rights and interests of both parties.

17. The Tribunal accepted that Mr. Murphy had previously resided in the Property as his main residence and intends to return to reside there and is fully entitled to do so. The Tribunal had regard to the fact that Mr. Wallace stopped paying rent when the Notice to Leave was issued without cause or reason to do so and has failed to pay rent in almost a year. The Tribunal took into account the extent of the negative financial impact which Mr. Wallace's actions have had on Mr. Murphy. The Tribunal took the view that the level of rent arrears and pattern of non-payment is not tenable for either Party and that it is not reasonable for this to continue..

18. With regard to alternative accommodation, the Tribunal had regard to the fact that, if evicted and made homeless, Mr. Wallace would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

19. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

20. This decision is unanimous.

## **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

# Karen Moore

**Legal Member/Chair**

**Date: 30th January 2026**